



# THE GENDERED ARCHITECTURE OF COMMERCIAL TRANSACTIONS: A SOCIO-LEGAL ANALYSIS OF MARKET POWER, ALGORITHMIC NEUTRALITY, AND RELATIONAL ECONOMICS

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## ABSTRACT

*The history of commercial law has long been pegged on the fiction of the Enlightenment period of the gender-neutral economic agent. This research article is a deconstruction of this myth that analyzes the multi-dimensional gender processes that dominate commercial transactions within the legal, sociological and technological environments. The synthesis between classical economic sociology (relational theories of Viviana Zelizer) and current-day issues concerning artificial intelligence and the platform economy also demonstrates that gender continues to be a key organizing principle of a market exchange. Based on the argument that the so-called rational actor is a masculine construct, the report discusses the historical exclusion of women in the legal and corporate professions and its enduring effects in the development of the contract doctrine. It also explores the problem of neutrality in machine-based credit scoring models, in which the legal prohibition of gender information unintentionally contributes to the discriminatory results. The research, based on empirical case studies of Indian consumer forums, world lending trends, and the new culture of the so-called Blockchain Bro, the culture of decentralized finance, raises systemic impediments beyond formal exclusion to the factual marginalization. The paper finds that to attain the goal of gender equality in the commercial world, there is need to move away the formalistic legal approach of being neutral in the law, to the contextual, socio-legal approach that acknowledges the embeddedness of economic life.*

**Keywords:** Gender Jurisprudence, Commercial Transactions, Algorithmic Bias, Economic Sociology, Financial Inclusion, Socio-Legal Theory.

## THE MYTH OF NEUTRALITY: HISTORICAL AND THEORETICAL FOUNDATIONS OF COMMERCIAL DOCTRINE

A comparatively new legal abstraction is the commercialization of transactions into being objective and gender-blind. In the contexts of classical liberalism, the market is theorized as a meritocratic environment that people are stripped off their social identities and where people assemble to exchange value on the basis of utility and rational choice.<sup>i</sup> Nevertheless, such a model of Rational Actor is a historical fact that disregards the gendered circumstances of its own existence. The legal personality of a married woman was long since obliterated in common law jurisdictions by the doctrine of coverture, making her unable to enter into a contract, own or trade independent property and conduct independent commercial business.<sup>ii</sup> As such, men set up the principles of the contract law and corporate governance, to serve men in a time when women were completely excluded.<sup>iii</sup> The status to contract was no gender-neutral development, the phenomenon that is usually hailed as the brightest feature of legal modernity. Even though it officially gave women equality, the principles underlying it were still male dominated. The case of contract law is no exception, where abstractionism takes precedence over the situationalization and the top-down aspects of decision-making processes and rather than group decision-making, characteristics that mirror the socio-cultural experiences of the male elite, who formulated them.<sup>iv</sup> Although female lawyers started entering the law practice in the 20th century, they were commonly pushed to the so-called feminized areas of legal activity, such as probate or family law, whereas high-ranking commercial areas of the law remained the domain of males.<sup>v</sup> This division continues to exist in the modern legal market, in which sterling academic qualifications produce much greater increases in income benefits for male attorneys than in their female counterparts, implying that even the so-called human capital, which is highly prized in the commercial space, is a gendered measure.<sup>vi</sup>

## **SOCIOLOGICAL PERSPECTIVES: EMBEDDEDNESS, STATUS QUALIFIERS, AND RELATIONAL ECONOMICS**

The gender essence of commercial transaction requires one to consider more than legal provisions which serve as sociological reality of the market. The economical sociology assumes that social relations have all transactions embedded in them, that is, they are affected by networks, norms, culture.<sup>vii</sup> One of the most important contributions to this area is a work by Viviana Zelizer who seeks to debunk the idea of hostile worlds the notions that money and intimacy are mutually exclusive.<sup>viii</sup> The approach of the connected lives of Zelizer states that individuals apply economic activity on a regular basis in the establishment, preservation and change of social relations.<sup>ix</sup> Commercially, this implies that, the identity of the transacting parties, their gender, status, and relationship determines the social meaning of the transaction.<sup>x</sup> Gender functions as a critical status qualifier in these interactions. While material resources such as income, property, and education remain the primary drivers of social status in commercial environments, interactional resources such as manners, appearance, and family status play a secondary but significant role, often creating a “double bind” for women in negotiations.<sup>xi</sup> Research indicates that while high academic achievement boosts male lawyers' incomes substantially, it does not have the same effect on female lawyers' incomes, proving that the legal market especially disadvantages women who excel in traditionally male-valued metrics.<sup>xii</sup> Cultural engagement in areas like politics or fine art has the least impact on social status compared to these material and interactional dimensions.

Furthermore, Zelizer demonstrates that people use different “payment systems” to define the nature of their social ties, a phenomenon that has profound implications for how credit is extended and debts are collected.<sup>xiii</sup> In the commercial realm, this manifests in the use of “personal guarantees” in small business lending, which often serves as a mechanism to pierce the corporate veil specifically for female entrepreneurs, effectively re-importing their domestic and personal liabilities into the commercial realm.<sup>xiv</sup> This is a sociological fact that the commercial identity of women is often perceived to be inseparable with their relational and private identity, and that men are more than often being given the privilege of the abstract and autonomous legal person. This separate legal personality of the firm can serve as a shield of male actors, but be inconsistently applied to women, who are more often requested to provide personal assets as collateral. The Vulnerability Theory presents a more recent aspect to the analysis by decomposing binary gender categories to study how corporate institutional relationships of principal/agent and worker/owner are inherently unequal and how the rational, autonomous actor as the centre of corporate law is a myth since all parties to the market are inherently vulnerable and interdependent.<sup>xv</sup>

## **ACCESS TO CAPITAL: THE PARADOX OF MANAGEMENT AND THE FINANCIAL GLASS CEILING**

The most important point of commercial activity, arguably, is access to finance, though it is also highly gendered. The empirical evidence has continued to indicate that female entrepreneurs experience much more credit barriers as compared to their male counterparts.<sup>xvi</sup> On the demand side, women involvement in the commercial credit markets is influenced by the discouragement of borrowers. Research in India and Africa also shows that women managers are less likely to apply by a statistical value to borrow, which is perhaps because of a perception of bias by the lender or a lack of confidence in the lending process.<sup>xvii</sup> Interestingly, female owners are actually more likely to seek loans, but if the firm is also female-managed, the likelihood of application drops, suggesting that the management role is more acutely sensitive to gendered market signals than the ownership role.<sup>xviii</sup> This suggests a nuanced “Management Paradox” where the presence of a woman in an operational leadership role triggers different lender heuristics than her presence as a passive owner. The supply side reveals even more stark disparities, as loan officers—particularly in environments with limited information—often use gender as a heuristic for risk, with each year of a loan officer's experience reducing gender-biased loan allocations by approximately 6%.<sup>xix</sup>

**Table 1: Gender Composition of Ownership and Management and its Impact on Loan Approval Outcomes<sup>xx</sup>**

Leadership Structure	Loan Approval Probability	Risk Perception Basis
Male Owner / Male Manager	Highest (Benchmark)	Standard Credit Metrics
Female Owner / Male Manager	High (No Significant Gap)	Perceived Professionalism
Male Owner / Female Manager	Lower (Significant Denial)	Statistical/Taste Bias
Female Owner / Female Manager	Lowest	Intersection of Biases

## CONSUMER PROTECTION AND THE “PINK TAX” NARRATIVE IN DIGITAL AND PHYSICAL MARKETS

The gender aspect in consumer transactions takes the form of prices and market perception, widely known as the Pink Tax.<sup>xxi</sup> It has been a well-known phenomenon in which women are charged more when they are the intended market consumers of personal care products than in other products of the same type targeting men, even though the production costs are almost identical.<sup>xxii</sup> In a very thorough review of personal care items, the U.S. Government Accountability Office (GAO) found that gender influences the prices of products significantly more in products like deodorants and fragrances, where the female products were always more costly despite differences in size and packaging.<sup>xxiii</sup> Conversely, certain categories like shaving gel and nondisposable razors saw higher prices for men, while mass-market perfumes and disposable razors showed no significant gender price differences.<sup>xxiv</sup> While firms argue that these differences are due to advertising costs or consumer preferences, the sociological reality is that women often have a higher “willingness to pay” for certain gendered attributes, which firms exploit through sophisticated market segmentation. Critically, there is no federal law in the U.S. that prevents businesses from charging different prices for men’s and women’s products, leaving the correction of these disparities to consumer movements and state-level legislation.

Digital markets further complicate these patterns through trust, emotion, and convenience. Men are generally more focused on the transactional aspects of e-commerce, while women’s satisfaction is more closely tied to perceived emotional benefits, trust, and the logistical convenience of the platform.<sup>xxv</sup> Women tend to express higher levels of skepticism toward online shopping, often due to concerns about data privacy and the hassle of returns, which leads to lower behavioral intentions to purchase online compared to men.<sup>xxvi</sup> Ironically, some peer-to-peer markets such as eBay have female vendors of professionally graded products such as baseball cards who earn more profits than their male counterparts. This is explained by the statistical discrimination when buyers are inclined to think that female sellers are more delicate, pack goods carefully, and send them in time and so the gender stereotypes sometimes become the type of reputational capital of women in this or that niche market.<sup>xxvii</sup>

## THE ALGORITHMIC TURN: MACHINE LEARNING AND THE PARADOX OF NEUTRALITY

As commercial decision-making transitions to artificial intelligence (AI) and machine learning (ML), a “new dimension” of gender discrimination has emerged: the Paradox of Neutrality. Traditional anti-discrimination laws, such as the Equal Credit Opportunity Act (ECOA) in the U.S., prohibit the collection or use of protected attributes like gender in credit decisions.<sup>xxviii</sup> However, ML models like Random Forest or XGBoost can inadvertently replicate gender bias by triangulating “proxies” for gender—such as the types of products purchased, websites visited, or even the device used to access the site—a process known as “feature engineering” through non-sensitive variables.<sup>xxix</sup> Research indicates that regimes that force the exclusion of gender from the model training process actually lead to a substantial increase in discrimination,<sup>xxx</sup> as the algorithm estimates parameters in a way that often results in higher rejection rates for women, particularly in credit scoring.<sup>xxxi</sup> This is because having access to the gender variable allows for the creation of interactions (e.g., “gender x income”) that account for different spending patterns or life stages, whereas “gender-blind” models see 20% of their most impactful features altered in a way that disadvantages the protected group.

Furthermore, models without gender see a 0.25% lower profitability, creating a “lose-lose” scenario where both fairness and firm performance are compromised by a formalistic adherence to neutrality.<sup>xxxii</sup>

The impact of legal frameworks on algorithmic fairness is thus divided into three regimes: Regime 1, which allows the use of gender to actively mitigate bias; Regime 2 (EU-style), which allows collection but prohibits its use as a decision feature; and Regime 3 (US-style), which prohibits both.<sup>xxxiii</sup> Analysis shows that the “blindness” of Regime 3 is the most problematic, as it prevents firms from even measuring discrimination, let alone taking active steps to reduce it.<sup>xxxiv</sup> Methods like “probabilistic gender proxy modeling” could potentially decrease discrimination by over 71% with a slight increase in profitability, yet these are often legally prohibited under current frameworks that mandate total demographic ignorance.<sup>xxxv</sup> This change of human-initiated to algorithmic-initiated transactions is a translocation of taste-based and systemic and data-driven black-box exclusion that is much more difficult to identify and bring to court.<sup>xxxvi</sup>

### INDIA’S CONSUMER PROTECTION LANDSCAPE: EMPIRICAL DEEP DIVE INTO DISTRICT FORUMS

India is a good case study, in which the changes in commercial laws involving gender aspects are seen. Consumer Protection Act (CPA) 2019 was an unprecedented reform that aimed to tackle the problem of the online market and transition to e-commerce.<sup>xxxvii</sup> An in-depth analysis of consumer forums in Chhattisgarh would indicate that, although the law is gender-neutral as such, regional literacy and socio-economic status are significantly playing into the implementation.<sup>xxxviii</sup> The highest participation of women in consumer litigation is also experienced in Durg district which has the highest literacy rate in state, mainly in medical and everyday goods sector.<sup>xxxix</sup>

**Table 2: Gender-Disaggregated Consumer Complaints Before District Consumer Forums in Durg (India) <sup>xl</sup>**

Commercial Sector	Male Complaints (Durg)	Female Complaints (Durg)
Medical Negligence	High Participation	High Participation
Insurance Disputes	105	28
Housing/Real Estate	83	17
Banking Services	32	08
Everyday Goods (Cosmetics, Furniture)	465	146

In addition to the raw figures, there is a major socio-legal challenge of the District Consumer Forums which has a frequent vacancy in the lady member. The legislation will demand that a woman is among the bench to have a balanced outlook on consumer rights and to reduce bias of the patriarchy within the courts of law.<sup>xli</sup> In fact, most courts lack full quorum, which means that a system is dead so that cases are held in abeyance of 2-5 years to give unscrupulous traders an opportunity to do unfair acts without facing consequences.<sup>xlii</sup> This de facto implementation failure is contrasted with de jure development of the CPA 2019 that, as a form of overseeing and enforcing consumer rights on a class-action basis, created the Central Consumer Protection Authority (CCPA).<sup>xliii</sup>

### PLATFORM LABOR, PRECARIETY, AND THE INTERSECTIONALITY OF THE GIG ECONOMY

The digital platform economy such as gig work on sites such as Uber, Deliveroo or Upwork is commonly touted as a way of female empowerment by providing flexibility, but according to feminist analysis is frequently gender blind in a manner that enshrines the creation of barriers.<sup>xliv</sup> Platforms are built around what an archetypal worker is: a mobile, digitally active man who has no domestic obligations, which does not consider how women are disproportionately responsible for the disproportionate amount of unpaid care and domestic labor.<sup>xlv</sup> The algorithms which shall penalize the workers who choose their own jobs or decide to take a break unwillingly

discriminate women who need to work and take care of their family members, and legitimize a platformization of inequality.<sup>xlvi</sup>

Platform work experience is also influenced by race, caste and location and produces intersectional precariousness. In places such as Ghana, Kenya, and Nigeria, young women engage on platforms as platform livelihoods, working in a topographically uneven terrain where offline prejudice is not solely mirrored, but actively honed on the digital front. As an example, cleaning and noncompensated surveillance techniques are prevalent in terms of monitoring of the so-called feminized domestic and beauty work, whereas platforms do not guarantee the living wage, healthy work environment, or safeguard against gender-based discrimination.<sup>xlvii</sup> These systemic failures risk widening the gender pay gap and reducing the workforce participation of women, as the “independence” promised by the platform often translates into a lack of the formal protections found in traditional employment.<sup>xlviii</sup>

## **BLOCKCHAIN AND SMART CONTRACTS: OPPORTUNITIES AND CULTURAL BARRIERS**

Blockchain technology and smart contracts can be viewed as a new dimension of commercial transactions, which may provide a way to achieve financial independence among women in the developing societies where they do not have any legal documents.<sup>xlix</sup> The identity system built on blockchain technology will be able to offer an immutable, decentralized identity record, which women can use to assert legal rights, property ownership and access financial services without the mediation of men.<sup>l</sup> Smart contracts encourage credible transactions, since there is no trust in a third party, which is often biased, and which is usually centralized.<sup>li</sup>

This possibility notwithstanding, the blockchain sector has a colossal gender disparity, with 14.5% of blockchain start-up members being females and only 7% of them occupying leadership roles.<sup>lii</sup> The stereotype of the Blockchain Bro and the male-dominated development audience places cultural barriers to women in this field since men are three times more likely to purchase and use cryptocurrencies than women.<sup>liii</sup> Obstacles to women have been identified as bias, lack of digital literacy, and the phrase Blockchain Bro culture an atmosphere that defines the brief history of the sphere. To become a strategic tool of gender equality, blockchain needs to be combined with both inclusive policies and education programs that focus on eradicating the digital gender gap but not on the perceived impartiality of the code.<sup>liv</sup>

## **INTERNATIONAL FRAMEWORKS AND JUDICIAL PRECEDENTS: THE GLOBAL JURISPRUDENCE**

The global governance of gender in commercial transactions is mediated through international organizations like the World Trade Organization (WTO) and UNCITRAL.

The World Trade Organization (WTO) and UNCITRAL have increasingly integrated gender perspectives into their mandates. The WTO’s 2017 “Buenos Aires Declaration on Trade and Women’s Economic Empowerment” signaled a global commitment to identifying and removing barriers for women in trade.<sup>lv</sup> UNCITRAL also supports gender equality by harmonizing rules for Micro, Small, and Medium-sized Enterprises (MSEs), which are often the primary vehicles for female entrepreneurship.<sup>lvi</sup>

## **LANDMARK JUDICIAL DECISIONS**

- **Mahmood v Standard Chartered Bank (DIFC, 2024):** This was the first ever case in the Dubai International Financial Centre to tackle discrimination and victimization in the financial sector. The 188-page judgment provides a benchmark for causation and the burden of proof in commercial employment discrimination.<sup>lvii</sup>
- **India: Restaurant Orchestra Restrictions (2022):** The Indian Supreme Court struck down gender-based caps on orchestra performers, rejecting “public morality” arguments as stereotypical and paternalistic. The Court held that the state must facilitate women’s employment rather than thwarting it.<sup>lviii</sup>

- **USA: Ames v. Ohio Department of Youth Services (2025):** A unanimous Supreme Court revived a “reverse discrimination” lawsuit, establishing that the evidentiary burden for discrimination claims is identical regardless of the plaintiff’s membership in a minority or majority group.<sup>lix</sup>
- **UK: Macken v BNP Paribas:** A female broker won £2 million in a sexual discrimination case after being subjected to humiliating behavior (like a witch’s hat on her desk) and systematic bonus exclusion, highlighting the “hostile environment” that persists in high-finance transactions.<sup>lx</sup>

### TRANSFORMATIVE CONSTITUTIONALISM AND FUTURE OUTLOOK

Transformative Constitutionalism is another notion that applies especially to the gender aspects of commercial law. It assumes that the constitution is a living document, which should be upgraded to safeguard uniqueness and equality of women.<sup>lxi</sup> With advancement of society, the archaic provisions such as those that regarded women as possessions of their husbands ought to take their own grave.<sup>lxii</sup>

The project, Women, Business and the Law (WBL) by the World Bank is a benchmarking index of gender parity in 190 economies. The WBL has been extended in 2024 to capture not only the de jure laws (laws on the books) but also the de facto implementation (laws in practice).<sup>lxiii</sup> This shift is crucial because it reveals the gap between formal legal equality and the lived reality of women in commercial spaces.

**Table 3: Gender-Based Price Differentials in Personal Care and Grooming Products (“Pink Tax”)<sup>lxiv</sup>**

WBL Index Pillar	Focus Area	Impact on Transactions
De Jure Laws	Equality in hiring, pay, and assets.	Legal right to contract/own.
Institutional Frameworks	Policy and complaint mechanisms.	Ability to enforce commercial rights.
Expert Perceptions	Real-world enforcement.	Trust in the commercial system.

Achieving gender parity in employment and pay could unlock an average increase in GDP per capita of about 20% across countries.<sup>lxv</sup>

### CONCLUSION: TOWARD A CONTEXTUAL SOCIO-LEGAL FRAMEWORK

The gender aspects of trade are not a problem that exists on the periphery but on the core of the global market integrity and efficiency. Historical exclusion of women has created a trace of masculinity in the contract and corporate doctrines, and the contemporary shift to algorithmic decision-making has created new and, therefore, black-box different forms of bias.<sup>lxvi</sup> According to the so-called Paradox of Neutrality, it is not enough and even counterproductive to just not pay attention to gender as a component of the legal and technological system.

To move forward, the legal and sociological approach must embrace contextualization. This involves:

- **Refining Algorithmic Governance:** Moving away from “blindness” toward “awareness” to allow for active bias mitigation in credit and e-commerce models.
- **Structural Integrity in Redress:** Ensuring that judicial and quasi-judicial bodies (like India’s Consumer Forums) have the required female representation to function effectively.
- **Harnessing New Technologies:** Utilizing blockchain and smart contracts to provide digital identity and financial autonomy to women, while simultaneously challenging the exclusionary cultures of the tech industry.
- **Socio-Legal Synergy:** Recognizing that money and commerce are deeply relational processes, and that commercial laws must protect the “vulnerable participant” rather than the “mythical rational actor.”

Through these dimensions, the business world can become a place of reproduction of gendered power and the place of actual economic power and inclusion.

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